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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,900	09/22/2000	Adam I. Pinard	I0001-009001	1242

7590 11/10/2005
Kristofer E Elbing
187 Pelham Island Road
Wayland, MA 01778

EXAMINER

THOMPSON, JAMES A

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/667,900

Applicant(s)

PINARD ET AL.

Examiner

James A. Thompson

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-42.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The proposed amendments to the claims would change the scope of the claims. The proposed amendments to the claims would therefore require further consideration and further search. Thus, the proposed amendments to the claims will not be entered.

Response to Arguments

2. Applicant's arguments filed 05 October 2005 have been fully considered but they are not persuasive.

Regarding page 12, line 8 to page 14, line 24: Applicant argues that the color separation shown by Spence (US Patent 5,333,069) is not a halftoning technique and then presents supporting arguments and evidence. Examiner replies that, while Examiner agrees that the digital color separation (figure 1(110) of Spence) alone is not a halftoning technique, said digital color separation is, in fact, the first step in a halftoning technique. Examiner has cited more than merely figure 1(110) of Spence to demonstrate that Spence teaches the first halftoning technique recited in claim 1. In the previous office action, dated 25 March 2005, Examiner also cited column 13, lines 31-38 and lines 42-45 of Spence to demonstrate that the digital color separations (figure 1(110) of Spence) are indeed part of a halftoning technique. A portion of said citation states:

"... to render a halftone color image of continuous tone ('contone') original artwork 100, e.g., a color transparency, through apparatus 5, a set of digital separations 110 may be made for this artwork, through processes not shown or relevant

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here." [column 13, lines 31-35 of Spence] [emphasis added]

Thus, said digital color separations are clearly part of a halftoning technique. Although the cite above is sufficient evidence that a separate halftoning technique is taught, of which figure 1(110) of Spence is the first step, Examiner wishes to direct Applicant to other portions of Spence which further demonstrate that said digital color separations cited are part of a halftoning technique. Figure 1 of Spence shows that the digital color separations are transmitted to a direct digital color proofing system (figure 1(143) of Spence). Said system is described elsewhere in Spence. In particular, column 14, lines 41-49 of Spence states:

"Inasmuch as the imaging process used by system 143 *for producing halftone images* formed on a dye transfer receiver and subsequently transferred to paper (the paper having characteristics similar to the paper which will be used in a press) differs, in this case significantly, from that used by press 168 to produce an image on publication stock, DDCP system 143 and press 168 will reproduce colors within different color gamuts as well as possess different color responses."

Thus, the direct digital color proofing system (figure 1 (143) of Spence) produces halftone images using a different halftone technique than the halftone technique used by the press (figure 1(168) of Spence).

Regarding page 14, line 25 to page 15, line 2: Examiner agrees with Applicant that Spence does not teach the limitations that Applicant has added to claim 1 in Applicant's proposed amendments. However, since the amendments to the claims will require further search and consideration by Examiner, said amendments have not been entered.

Regarding page 15, line 4 to page 16, line 17: Vinck (US Patent 5,953,988) has been combined with Spence to teach that the proof printers taught by Spence are specifically ink jet printers. While Spence did not expressly teach that the proof printers are ink jet printers, ink jet printers are common in the art and one of ordinary skill in the art at the time of the invention would clearly have adequate motivation to modify the teachings of Spence such that an ink jet printer is specifically used for the proof printer. The above modification, along with adequate motivation to combine the references, is discussed in detail on page 18, line 24 to page 19, line 7 of said previous office action.

In this section of Applicant's present arguments, Applicant has also argued that certain limitations of the proposed amendments to claim 19 are not taught by the combination of Spence and Vinck. Examiner agrees that Spence and Vinck do not fully teach claim 19 as set forth in the proposed amendments. However, as stated above, the proposed amendments to the claims have not been entered since said proposed amendments would require further search and consideration by Examiner.

Regarding page 16, line 19 to page 18, line 5: Firstly, claim 34 has been rejected under 35 USC §102(b) as being anticipated by Spence (see pages 12-13 of said previous office action). Thus, the arguments regarding Vinck and the alleged impropriety of combining Vinck with Spence are not relevant with regard to claim 34. Spence does teach "altering at least a plurality of areas distributed within at least some of the dots with substantially the same color alteration", as recited in claim 34. This is taught in column 19, lines 3-9 of Spence and

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explained in detail on page 12, line 26 to page 13, line 4 of said previous office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


02 November 2005

James A. Thompson
Examiner
Art Unit 2624



THOMAS D.
~~LEE~~ LEE
PRIMARY EXAMINER